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INTELLIGENT AUTOMATION TECHNOLOGY, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CADENCE DESIGN SYSTEMS, INC., a  
Delaware Corporation

Plaintiff,

v.

INTELLIGENT AUTOMATION (ZHUHAI)  
CO., LTD., a Chinese Limited Liability  
Company,

Defendant.

Civil Action No. 5:24-cv-7031-PCP

**NON-PARTY INTELLIGENT  
AUTOMATION TECHNOLOGY, INC.'S  
NOTICE OF MOTION AND MOTION  
TO QUASH SUBPOENA**

Date: May 15, 2025  
Time: 10:00 a.m.  
Courtroom: 8  
Judge: Hon. P. Casey Pitts

## **INTRODUCTION**

Intelligent Automation Technology, Inc. (“IAT” or “Movant”), a California corporation, by and through its undersigned counsel, Paul Law Group, A Professional Corporation, notices and brings this motion pursuant to Rules 45 and 26 of the Federal Rules of Civil Procedure (“FRCP”) to quash a third-party subpoena issued on March 24, 2025, by Plaintiff Cadence Design Systems, Inc. (“Plaintiff” or “Cadence”). The hearing for this motion is scheduled for May 15, 2025 at 10:00 a.m.

IAT is a non-party to this action, and appears as Movant to request that the Court quash the subpoena issued by Plaintiff to IAT in this matter. *See* **Exhibit 1**.

## **BACKGROUND**

As reflected in the record, on October 7, 2024, Plaintiff filed a complaint for copyright infringement and breach of contract against Intelligent Automation (Zhuhai) Co., Ltd. (“ZHUHAI”), “a company organized and existing under the laws of the People’s Republic of China.” Compl. ¶ 3. *See* Ct. Docket 1. Thereafter, on October 23, 2024, Plaintiff attempted to serve ZHUHAI the Summons and Complaint through service on IAT pursuant to FRCP 4(h)(1)(A)-(B). *See* Ct. Docket 12. At that time, counsel for IAT explained to Plaintiff’s counsel that such service was ineffective because IAT was never a general manager for ZHUHAI, that IAT is a separate entity, and that IAT could not accept service on behalf of the Defendant on this basis. On December 6, 2024, Plaintiff filed a supplemental proof of service alleging an attempt to personally serve ZHUHAI in China. *See* Ct. Docket 13. Following these events, Plaintiff filed a request for entry of default against ZHUHAI, which was entered December 13, 2024. *See* Ct. Docket 15 (modified Dec. 16, 2024).

Following a case management conference in which ZHUHAI did not make an appearance, Plaintiff brought an administrative motion requesting the Court to open discovery pursuant to FRCP 26(d)(1), which allows a party to open discovery prior to a case management conference following a court order. *See id.*; Ct. Docket 19. In its motion, Plaintiff claims discovery is needed to “confirm whether any other entities are involved in the misconduct alleged in the Complaint” and to

determine the amount of ZHUHAI's revenue. *See* Ct. Docket 19 at 3. This motion was granted in an Order dated January 28, 2025. *See* Ct. Docket 20.

Following entry of the Court's Order, Plaintiff served a third-party subpoena on IAT on March 25, 2025. A true and correct copy of this subpoena is attached as **Exhibit 1**.

### **ARGUMENT**

The third-party subpoena served on IAT must be quashed because: (A) the named defendant ZHUHAI was not properly served with the Complaint in accordance with the Hague Convention; and (B) the subpoena was not issued in compliance with Federal Rule of Civil Procedure 45.

#### **A. Improper Service of ZHUHAI**

Plaintiff asserts that ZHUHAI is a foreign entity based in China. *See* Compl. ¶ 3. Before a federal court may exercise jurisdiction over a defendant, "the procedural requirement of service of summons must be satisfied." *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987); *see also* *Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 350 (1999) ("In the absence of service of process (or waiver of service by the defendant), a court ordinarily may not exercise power over a party the complaint names as defendant."). When the validity of service is contested, the burden shifts to the plaintiffs to demonstrate that service was effectuated in accordance with Rule 4. *Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir. 2004) (citing A Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1083 (3d ed. 2002 & Supp. 2003)). Neither actual notice of the litigation nor the mere inclusion of a defendant's name in the caption of the complaint suffices to establish personal jurisdiction absent substantial compliance with the service requirements delineated in Rule 4. *Crowley v. Bannister*, 734 F.3d 967, 975 (9th Cir. 2013) (brackets omitted).

To serve the defendant properly, Plaintiff is required to follow Federal Rule of Civil Procedure 4(f) governing the service of a foreign defendant. FED. R. CIV. P. 4. In federal cases, FRCP 4(h)(2) authorizes service of process on a foreign business in the same manner prescribed by Rule 4(f). *Id.* at 4(h). Under Rule 4(f) there are three ways to effectuate service. Rule 4(f)(1) allows service "by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents." *Id.* Rule 4(f)(2) provides instruction in those circumstances where there

1 is no internationally agreed-upon means, or if an international agreement allows but does not  
2 specify other means, of service. *Id.* This would be most relevant when serving a company in a  
3 country that has not co-signed the Hague Convention. Lastly, Rule 4(f)(3) provides for a wide range  
4 of alternative service methods as it authorizes service “by other means not prohibited by  
5 international agreement as may be directed by the court.” *Id.* Rule 4(f)(3) can only be utilized by  
6 first filing a motion and obtaining a Court order for alternative service.

7 It is clear that ZHUHAI was not properly served. To serve the Defendant properly, Plaintiff  
8 would have to serve process under the Hague Convention, or at the very least, seek alternative  
9 service from the Court, before moving on to discovery. The requirements of the Hague Convention  
10 are familiar to the Plaintiff, which has previous experience in this jurisdiction with the issue of  
11 attempted improper service of a different entity, followed by an impermissible alternative service.  
12 *See Cadence Design Sys., Inc. v. Fenda USA Inc.*, 734 F. Supp. 3d 960, 963 (N.D. Cal. 2024)  
13 (holding “the [Hague] Convention delineates the exclusive means by which service of documents  
14 may occur in the signatory countries”). In that case, Cadence attempted to serve a defendant which  
15 was a Chinese entity, Shenzhen Fenda Technology Co., Ltd, and which was the parent company of  
16 the U.S. defendant, Fenda USA. The Court denied Cadence’s attempt to serve Shenzhen Fenda  
17 through the former attorney of its U.S. subsidiary (Fenda USA). *Id.* 965-66. The Court found it  
18 problematic because Cadence provided no evidence that notice to the attorney was reasonably  
19 calculated to apprise Shenzhen Fenda of the pending suit. *See id.*

20 Cadence then sought alternative service by email on Shenzhen Fenda Technology Co., Ltd.,  
21 the Chinese entity. *Id.* at 966-67. The Court denied Cadence’s motion, finding the “Convention  
22 prohibits service through methods not enumerated in its articles.” *See id.* As the Court explained,  
23 “the signatories to the Convention have agreed to make its procedures the exclusive mechanism for  
24 service of documents abroad, so methods not authorized under the Convention are ‘prohibited by  
25 international agreement.’” *Id.* at 965. The court ultimately denied Cadence’s motion for alternative  
26 service.

27 The situation at present is similar in the sense that service under the Hague Convention is  
28 required and was not followed. After the initial attempted service for the defendant (improperly

attempted on non-party IAT) was insufficient, Plaintiff attempted to conduct supplemental service under Rule 4(h)(1)(a) on a purported representative of the defendant. This attempt is invalid as explained by the Court in the *Fenda* case because it is a type of alternative service that is not authorized under the articles of the Hague Convention. *Id.* Moreover, this supplemental service is facially invalid because Cadence is attempting to use supplemental service in China to satisfy Rule 4(h)(1)(A). *See* Ct. Docket 13. However, Rule 4(h)(1) specifically provides that service must be in “a judicial district of the United States.” Cadence’s supplemental service was clearly served in China and was thus insufficient service under 4(h)(1).

The absence of proper service by Plaintiff on the Defendant ZHUHAI means that the Court lacks proper jurisdiction allowing issuance of the Order under which the third-party subpoena to IAT was served. *See* Ct. Docket 20. Proper service of a defendant is also linked to procedural protections of non-parties during the process of discovery. Accordingly, the subpoena should be quashed.

**B. Lack of Compliance with FRCP Rule 45**

The scope of discovery through Rule 45 “is the same as the scope of discovery permitted under Rule 26(b).” *Genus Lifesciences Inc. v. Lannett Co.*, No. 18-CV-7603 (WHO), 2019 WL 7313047, at \*4 (N.D. Cal. Dec. 30, 2019). The court must limit discovery “if it determines that ‘the discovery sought is unreasonably cumulative or duplicative or can be obtained from some other source that is more convenient, less burdensome, or less expensive.’” *Id.* (citing FRCP Rule 26(b)(2)(c)(i)).

As a threshold matter, without a properly served defendant in the proceedings, it is prejudicial to a non-party to be subjected to discovery where the rights of that non-party as protected, for example, in FRCP 45, are unable to be observed. As a practical matter, those rights are downstream from the basic need for a defendant to be present in a case and the obligation of the plaintiff to ensure that this condition occurs.

Federal Rule of Civil Procedure 45(c) contains rights in the form of protections for non-parties served with subpoenas. The first level of protection imposes an obligation on the party serving the subpoena to “take reasonable steps to avoid imposing undue burden or expense on a

1 person subject to the subpoena” and states that a court “shall enforce this duty.” See FED. R. CIV.  
2 P. 45(c). FRCP 45(c)(3)(A) provides that “on timely motion, the court by which a subpoena was  
3 issued shall quash or modify the subpoena if it “subjects a person to undue burden.” *Id.*

4 Here, Plaintiff’s subpoena contains fourteen requests for production from IAT. However,  
5 IAT is not a party to this litigation. In *Genus*, the court quashed a subpoena issued to a non-party  
6 because it found that it constituted an undue burden. The court stated that generally, ““there is a  
7 preference for parties to obtain discovery from one another before burdening non-parties with  
8 discovery requests.”” *Genus Lifesciences Inc.*, 2019 WL 7313047, at \*4 (citing *Soto v. Castlerock*  
9 *Farming & Transp., Inc.*, 282 F.R.D. 492, 505 (E.D. Cal. 2012) (collecting cases)). The court found  
10 that “[w]hen the requesting party has ‘not shown that it attempted to obtain documents from the  
11 opposing party in an action prior to seeking the documents from a non-party, a subpoena *duces*  
12 *tecum* places an undue burden on a non-party.’” *Id.* And further, the court in *Genus Lifesciences*  
13 stated that ““when an opposing party and a non-party both possess documents, the documents  
14 should be sought from the party to the case.”” *Id.* All the information in the requests by Plaintiff are  
15 likely in the possession of ZHUHAI, the named defendant in this case. More to the point with  
16 respect to the procedural protections, in the present case a defendant has not even been properly  
17 served, let alone available for the protections of FRCP 45 for non-parties to be implemented as  
18 required. It is clear that Plaintiff needs to effectuate proper service of the complaint first.

19 Based on the facts contained in the record, Plaintiff appears to be attempting an end-run  
20 around its procedural obligations. Beyond not effectuating proper service of the complaint in this  
21 litigation, Plaintiff has compounded the basic problem of not meeting this essential procedural  
22 requirement by attempting to obtain the right to burden non-parties to the litigation with discovery-  
23 based obligations. A clear danger with allowing a litigant to conduct discovery in the absence of a  
24 legitimately served defendant is presented in this situation. The power of the subpoena against  
25 people and entities should not be exercised lightly, and the recognition of the gravity of this power  
26 is acknowledged in the procedural requirements discussed, which tie back to the obligation to bring  
27 a defendant into litigation as an essential requirement before the present type of proceedings occurs.  
28

**CONCLUSION**

For the reasons stated here, IAT respectfully requests that the non-party subpoena served on Movant by Plaintiff be quashed.

Dated: April 8, 2025

Respectfully Submitted,

PAUL LAW GROUP, A PROFESSIONAL  
CORPORATION

By: /s/ Darcy Paul

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PAUL LAW GROUP, A PROFESSIONAL CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that I have on this 8th day of April, 2025, served via the Court's Electronic Case Filing system, a true and correct copy of the foregoing NON-PARTY INTELLIGENT AUTOMATION TECHNOLOGY, INC.'S NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA and [PROPOSED] ORDER on the Plaintiff.

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